IN THE HIGH COURT OF GUJARAT AT AHMEDABAD

FIRST APPEAL NO. 156 OF 1983

For Approval and Signature:

HONOURABLE MR.JUSTICE R.S.GARG

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1 Whether Reporters of Local Papers may be allowed to see the judgment ?

2 To be referred to the Reporter or not ?

3 Whether their Lordships wish to see the fair copy of the judgment ?

4 Whether this case involves a substantial question of law as to the interpretation of the Constitution of India, 1950 or any order made thereunder ?

5 Whether it is to be circulated to the Civil Judge ?

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NAGINBHAI DAHYABHAI BHARWAD - Appellant(s)
Versus
RATANSING ADESING PARMAR & ANR. - Respondent(s)

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Appearance :
Shri M.T.M. Hakim for Appellant(s).
Name of Respondent No.1 has already been deleted.
Ms. Manisha Lavkumar, AGP for Respondent(s) : 2.

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CORAM : HONOURABLE MR.JUSTICE R.S.GARG

Date : 22/08/2007

ORAL JUDGMENT

The appellant-claimant, being partly aggrieved by the award

dated 17th March, 1982, passed by the learned Motor Accident Claims Tribunal (Main), Bharuch in M.A.C.P. No.13 of 1981, is before this Court with a submission that the learned Tribunal below erred in awarding less compensation to the claimant, who had suffered amputation of one of the legs below knee.

2. In absence of the cross objections or cross appeals from the side of the respondents, this Court is not required to look into the details as to how the accident took place, whether the driver was rash and negligent or not and whether the learned Tribunal below was justified in fixing the liability of the respondents. This Court is required to consider the question of compensation only.

3. After taking me through the evidence, the learned Counsel for the appellant submitted that the learned Tribunal below, while holding that the average income of the appellant could be Rs.300 - Rs.400, erred in holding that the income could be Rs.300/- per month and erred in holding the future loss of income to be Rs.100/- only. He submitted that other evidence available on the record would clearly show that the income of the injured claimant could safely be assessed at Rs.500/- per month. He submitted that the learned Tribunal below for no good reason held the loss to the extent of Rs.100/- per month, while, in fact, on the assessment of the lower Court itself, the loss should have

been assessed at Rs.200/- per month towards future economic loss and Rs.400/- for the period of two years when the appellant-claimant could not attend to the work. Shri Hakim further submitted that the learned Tribunal below was unjustified in applying the multiplier of 15 (fifteen), while looking to the age of the claimant, the multiplier of 18 (eighteen) should have been applied.

4. Ms. Manisha Lavkumar, learned Counsel for respondent No.2-State, on the other hand, submitted that the learned Tribunal below was absolutely justified in holding the future loss to be Rs.100/- per month and did not err in making the award. She submitted that the learned Tribunal below was justified in applying the multiplier of 15 (fifteen).

5. The learned Tribunal below, on one side rejected the evidence of the claimants when the claimants wanted to prove that the income was beyond Rs.550/- per month, saying that if the income was beyond that, then, the claimant was required to plead so, but, at the same time, it even did not accept the said figure of Rs.550/-. In paragraph 26, the learned Tribunal has observed that the income of the deceased could be assessed at Rs.300 - Rs.400, but, at the same time, observed that the economic loss to the claimant on account of permanent partial disability will have to be assessed on the basis of Rs.100/- per

month. In the opinion of this Court, if the income could be Rs.400/- per month, then, 50% loss would be Rs.200/- and not Rs.100/- per month. If the income of Rs.400/- is taken to be the average income of the injured, then, for a period of two years, when he could not work, he would be entitled to a sum of Rs.9,600/- and not Rs.7,200/-. Under the head of economic loss suffered, the claimant would be entitled to a sum of Rs.2,400/- in addition to what has already been awarded to him.

6. If the future economic loss is assessed at Rs.200/- per month, then, the claimant would be entitled to a sum of Rs.36,000/-, that is, additional amount of Rs.18000/- in addition to what has already been awarded.

7. So far as the question of multiplier is concerned, this Court should hold that the learned Tribunal below was unjustified in applying the multiplier of 15 (fifteen). In case of a young man of 25 years, the multiplier of 17 (seventeen) would be reasonable. In view of the additional multiplier of 2, the claimant would be entitled to additional sum of Rs.4,800/-. The claimant would be entitled to the additional sum of Rs.25,200/- and respondent No.2 (sole respondent now) would be liable to pay the said additional amount with 6% interest from the date of the application till realisation.

8. The appeal is allowed to the extent indicated above. No costs.

[R.S.Garg, J.]

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